



ELECTRONIC CONTROL WEAPONS

FC No.: 133

Date: 09-21-16

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

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I. Policy

- A. The purpose of this policy is to provide guidance to aid *officers* in the *decision to use an Electronic Control Weapon (ECW)*. *Deploying an ECW is a serious use of force, and, as a less-lethal weapon, has some potential to result in a fatal outcome even when used in accordance with policy and training.*
- B. *The Montgomery County Police Department has issued ECWs to department trained and certified officers to provide those officers with additional less-lethal use of force options. It is the policy of the department that personnel may use the ECW when warranted, but only in accordance with department training and guidelines set forth in this directive and in the department's Use of Force policy (FC 131).*
- C. Officers may only use force which is objectively reasonable to make an arrest, an investigatory stop/detention or other seizure or in the performance of their lawful duties to protect themselves or others from personal attack, physical resistance, harm, or death. The decision to exercise force must be based upon the circumstances that the officer reasonably believes to exist. In determining the appropriate level of force to be used by an officer, the nature of the threat or resistance faced or perceived by the officer as compared to the force employed should be considered. Factors to be considered in assessing the level of force to be used include, but are not limited to the following:
 - 1. the severity of the crime at issue,
 - 2. whether the subject poses an imminent threat to the safety of the officers or others, and
 - 3. whether the subject is actively resisting arrest, or the subject is attempting to evade arrest by flight.*The reasonableness of force used by an officer will be analyzed based on the totality of the circumstances at the time the force was used.*

II. Definitions

- A. **Active Resistance:** *Occurs when a subject takes action and/or uses evasive movements that attempt to physically counteract or defeat an officer's attempt to detain a subject or place them in custody and take control, and which may create a potential risk of bodily harm to the officer, subject, and/or other persons. Examples include, but are not limited to, pulling away from the officer, breaking officer's grip and/or control, or fleeing arrest.*
- B. **Drive-stun mode:** *Placing the ECW in direct contact with the subject's body. Drive-stun is generally used as a pain compliance technique.*
- C. **Electronic Control Weapon:** *The department-issued electronic control **weapon (ECW)**, is a **less-lethal weapon** which utilizes neuro-muscular incapacitation technology to temporarily incapacitate an individual in order to enable officers to gain control and/or custody of that person.*
- D. **Medical Treatment:** *A minimum of an on-scene response by MCFRS.*
- E. **Objectively Reasonable Force:** *That level of force which is appropriate when analyzed from the perspective of a reasonable officer **on the scene** possessing the same information and faced with the same circumstances as the officer who actually utilized the force. **The objective reasonableness of a particular use of force is not analyzed with hindsight, but will take into account the fact that officers must make rapid decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations.***
- F. **Passive Resistance:** *A refusal by an unarmed person to comply with an officer's verbal command or physical control techniques **by non-violent actions**. Examples include, but are not limited to, ignoring verbal instructions by failing to respond or move, linking arms, or going limp.*
- G. **Preferred Target Zone:** *Areas below the neck area for back shots and lower center mass (below chest or heart area) for front shots on subjects.*
- H. **Probable Cause:** *Facts and circumstances that would lead a reasonable person to believe that a crime has been committed and a particular individual has committed that crime.*
- I. **Probe Mode:** *Probe mode occurs when two probes are fired from a disposable cartridge to deliver electrical pulses to the body disrupting voluntary control of muscles in order to achieve temporary neuro-muscular incapacitation.*
- J. **Serious Physical Injury:** *Bodily injury that creates a substantial risk of death, causes a serious, permanent disfigurement, or results in long term loss or impairment of any bodily member or organ.*

III. ECW Usage Guidelines

- A. **Deployment of the ECW**
Officers may only deploy an ECW when an objectively reasonable officer would conclude that the circumstances present a risk of immediate danger that is reasonably likely to be mitigated by use of the ECW.
 - I. *An ECW may be used against subjects who are actively resisting in **circumstances** that, in the officer's judgment, **present a risk of immediate danger to the officer or others.***
- B. *Deploying an ECW is a serious use of force, and, as a less-lethal weapon, has some potential to result in a fatal outcome even when used in accordance with policy and training. An ECW is not an all-purpose weapon that takes the place of de-escalation techniques and other options.*

- C. ***Each application of the ECW*** must be independently justified, and ***the*** risks should be weighed against other force options.
- D. Fleeing ***shall*** not be the sole justification for using an ***ECW*** against a subject. ***An ECW may only be deployed on a fleeing subject when the circumstances present a risk of immediate danger to the officer or others that is likely to be mitigated by use of the ECW.***
- E. ***The intended reaction of a person exposed to an ECW discharge is the loss of some voluntary muscle control, potentially resulting in the subject falling to the ground. For this reason, there is a possibility of some secondary injury to the subject, caused by falling and striking a hard surface (e.g., concrete sidewalk, curb, asphalt driveway, or parking lot).***
- F. Only officers that have successfully completed the department's approved training and certification requirements will be permitted to carry and/or utilize an ***ECW***.
- G. Only department-issued ***ECWs, issued holster, and issued cartridges are authorized for use. Holsters must be mounted on the officer's weak/support side of the duty belt or on their vest. Personnel who are carrying a departmental ECW while on duty, must have both (2) cartridges affixed to their ECW at all times. The only exception to this would be if the officer has deployed a single cartridge, and is awaiting a replacement cartridge.***
- H. Whenever practical, the ***ECW*** operator will:
 - 1. Give verbal warnings to a subject that the ***ECW*** is about to be deployed. ***This could give the suspect the opportunity to voluntarily comply with the officer's lawful orders.***
 - 2. Verbally announce "TASER" to other officers before the ***ECW*** is discharged. This will let the officers involved know that the ***ECW*** is being deployed.
- I. As a de-escalation technique, sparking the ***ECW*** from a safe distance without a cartridge, as well as pointing the ***ECW's*** laser at a subject ***in the preferred target zone*** is permitted in order to gain compliance prior to deploying the ***ECW***.
- J. Personnel should use an ***ECW*** for one standard cycle (five seconds), and then evaluate the situation to determine if subsequent cycles are necessary. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands either during or immediately following an ***ECW*** exposure. Assisting officers must secure the subject as soon as practical and, if practical, ***and safe to do so, move in and "handcuff under power."*** ***Officers will only use the minimum number of activations necessary to place the person into custody.***
- K. Continued ***ECW*** applications administered to a subject that is highly resistant to pain may not change the subject's behavior. If the desired behavior is not achieved after deployment, officers should consider alternative methods.
- L. ***ECW*** applications will be administered in a manner and duration consistent with training by the Department.
- M. An ***ECW*** may be used during department-authorized training programs and/or demonstrations. ***In these instances, officers are exempt from the mandatory reporting requirement.***
- N. ***An ECW may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.*** An MCP 37 is required in cases where an officer uses ***an ECW*** against a dangerous or vicious domestic animal.

IV. Prohibited *ECW* Uses

- A. Officers are prohibited from using the *ECW* under the following circumstances:
1. In a punitive or malicious manner.
 2. In drive stun mode as a prod or escort device.
 3. To rouse unconscious, impaired, or intoxicated individuals.
 4. The *ECW* shall not be used on those who passively resist as defined in this policy.
 5. On handcuffed subjects, unless the subject poses a ***risk of immediate danger*** to the officer, the subject, or others and other techniques have been or would likely be ineffective (specific articulation of exigent circumstances is required).
 6. To experiment on a person or allow a person to experience the *ECW*, even if the person requests it, when the *ECW*'s use would not otherwise be allowed by this policy.
This prohibition does not apply to voluntary *ECW* exposures of sworn officers during training or demonstrations that are authorized by the department. Voluntary *ECW* exposures to non-sworn personnel must be approved by the Director of the Training ***and Education Division*** prior to the training or demonstration.
 7. In a known flammable or explosive environment (i.e., a meth lab, where gasoline is stored, or where alcohol based OC spray was used, etc.) unless the officer's only other option would be deadly force.
 8. The *ECW* must not intentionally be aimed or discharged ***in the chest area near the heart***, at the eye, face, head, throat, neck, or groin unless such use occurs when deadly force is authorized.
 9. ***Officers shall not knowingly simultaneously deploy more than one ECW at a time against a subject.***

V. Elevated Risk Factors

- A. The department strongly discourages *ECW* usage under the following conditions due to the increased risk of harm to a subject or others. However, officers may face circumstances that dictate the necessity to utilize the *ECW* when elevated risk factors are present. Officers must specifically articulate the circumstances justifying the use of the *ECW* when:
1. Immediate surroundings create an obvious undue hazard (i.e., the subject could fall from a significant height ***above the ground*** or fall into ***a body of water such as a swimming pool***, etc.)
 2. The subject has control of a moving motor vehicle or machinery
 3. The subject is obviously pregnant, elderly and frail, or is a small child
 4. Repeated *ECW* applications (more than ***15 seconds total exposure*** or three 5 second cycles or drive stuns)
- B. Personnel should consider that exposure to the *ECW* for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. All applications should be independently justifiable, and the risks should be weighed against other force options.

VI. Accidental Cartridge Discharge

- A. In the event of an accidental *ECW* discharge, the officer shall promptly notify their supervisor who will ensure an incident report is completed documenting the incident.

VII. *ECW* Probe Removal

- A. Officers will take ***photographs*** of:
1. All visible signs of injury,
 2. *ECW* probes in skin or clothing prior to removal, and
 3. All marks produced by *ECW* probe or drive stun.

- B. Officers may remove probes from non-sensitive areas according to probe removal training guidelines. Officers are responsible for providing first aid after probe removal by applying alcohol wipes and band aids, if needed. Probes are to be treated as bio-hazard sharps and handled accordingly.
- C. Medical personnel shall remove probes located in sensitive areas (eye, face, breasts, throat, or groin) or deeply embedded in a body part.

VIII. Medical and Transport Considerations

- A. Officers and supervisors shall obtain medical treatment as soon as practical for individuals:
 - 1. Who have been exposed to an **ECW** (MCFRS Ambulance medical is an appropriate level of care; hospital/emergency medical center visit **may not be** required).
 - 2. Who show obvious signs that chemical restraint may be necessary. Officers must specifically request an Advanced Life Support Unit (ALS). ALS units carry medication which can assist in treating individuals suffering from excited or agitated delirium.
- B. Officers must be mindful of certain indicators and/or conditions when detaining or arresting a person. The following conditions and/or indicators may potentially contribute to sudden unexpected death following extreme physical exertion and/or restraint:
 - 1. Excited Delirium: State of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, epiphoria, hostility, exceptional strength, and endurance without fatigue.
 - 2. Alcohol or drug use/abuse
 - 3. Obesity
 - 4. Display of erratic/psychotic behavior
 - 5. Incoherent speech
 - 6. State of agitation
 - 7. Subject intentionally injuring themselves
 - 8. Subject disrobing or nakedOfficers must recognize these factors and closely monitor a subject in custody in the aftermath of a struggle when one or more of the above indicators are present and the scene is secure.
- C. Officers must take appropriate measures so that the individual being transported is able to breathe without restriction and if possible should lay the subject on their side or seated in an upright position. Officers **must** avoid transporting subjects in a face-down position whenever possible. Additionally, officers should avoid transporting a person in any position which places pressure on the **ECW** probes.
- D. Medical Emergencies
 - 1. Officers must immediately summon emergency medical assistance if the subject exhibits or complains of trouble breathing, becomes unresponsive, exhibits reduced levels of consciousness, or if in the officer's opinion the subject requires evaluation or medical treatment.
 - 2. ***Officers shall render medical aid, consistent with their training, as soon as practical and safe to do so.***
- E. Medical treatment will not be refused for any individual who requests it.
- F. If safety circumstances reasonably dictate moving the subject to another location, officers may have emergency medical personnel meet the officers at a nearby location to assess the subject and render aid.

IX. ECW Reporting Requirements

- A. ***The incident report should contain information that articulates the use of the ECW.***

- B. *Officers will download the ECW no later than the end of his or her assigned shift, unless an exception is authorized by a supervisor. The download data sheet will be submitted to the officer's supervisor prior to the end of duty.*
 - 1. *In a critical incident (such as an officer involved shooting, in-custody death or other officer involved incident that results in serious injury or death), a supervisor may immediately take custody of the ECW and, in such case, will be responsible for the download.*
- C. *An MCP 37 (Use of Force Report) will be completed for all ECW deployments, other than for those situations such as training/demonstrations as specified in this policy. The incident report, MCP 37, and download data sheet will be submitted to the officer's supervisor prior to the end of duty unless an exception is authorized by a supervisor.*
- D. *District Commanders (or their designee) will review the incident report, ECW download data sheet, and MCP 37 associated with all ECW deployments that occur within their respective districts as part of the use of force review and approval process. The documents will be forwarded, via the chain of command, to the bureau chief who, after review, will forward it to the Policy and Planning Division. District Commanders may retain copies of the ECW Download Report Summary and Event Report. No copies of the MCP 37 will be maintained other than those kept by the Policy and Planning Division.*
- X. **Officer's Responsibilities**
 - A. *In every incident where an ECW is deployed, officers are required to adhere to the guidance prescribed in the Officer's Responsibilities Section of the department's Use of Force Policy (FC 131).*
 - B. *The ECW will be removed from the vehicle and stored at the officer's residence or station locker when the vehicle is unattended other than for a short period of time. For example, the ECW should be removed when the PPV is parked overnight at the officer's residence or the SOFV is parked overnight at an approved facility. Officers will ensure that unauthorized persons do not handle the ECW.*
 - C. *Officers will perform a spark test of the ECW at the beginning of each shift to ensure that it is working properly.*
- XI. **Supervisor's Responsibilities**
 - A. *An ECC supervisor will immediately notify an on-duty patrol supervisor of, and the on-duty supervisor will respond to, all ECW deployments, in accordance with the guidelines set forth in the Supervisor's Responsibilities Section of the department's Use of Force Policy (FC 131). In addition, on-duty supervisors will ensure that the appropriate notifications, reviews, and reporting requirements are completed as listed in FC 131.*
- XII. **Training/Certification Requirements**
 - A. Authorization
Only officers who have successfully completed specified training courses and any required recertification courses as determined by the department are authorized to carry and/or use *an ECW*.
 - B. Annual Recertification
Each officer must certify annually with *the ECW* that the officer is authorized to use. Annual *recertification* must meet the standards of the Maryland Police and Corrections Training Commission and department training standards. Failure to recertify annually on *the ECW* will withdraw from the officer the authorization to carry or utilize that force option. In the case of department issued *ECWs*, such equipment will be immediately turned in to a sworn academy staff member until recertification is completed.

C. **ECW Policy**

Officers will be provided a copy of, and instruction in, the department's **ECW** policy prior to being authorized to carry **an ECW**.

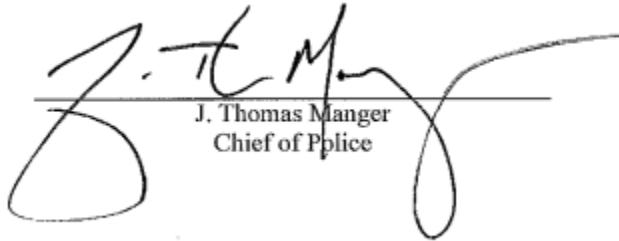
XIII. CALEA Standards: 1.3.1 through 1.3.12 and 82.3.5

XIV. Proponent Unit: Office of the Chief

XV. Cancellation: None

XVI. Disclaimer

This directive is for department use only and does not apply in any criminal or civil proceeding. This department policy should not be construed as the creation of a higher legal standard of safety or care in a legal proceeding relating to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions.



J. Thomas Manger
Chief of Police